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EXAMINER	
RANKINS, WILLIAM E	
ART UNIT	PAPER NUMBER
3696	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/644,281	SPIELER ET AL.	
	Examiner	Art Unit	
	WILLIAM E. RANKINS	3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 March 2008*.

2a)☒ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) *21* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20 and 22-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

Claims 1-24 are pending in this application. Claim 21 has been canceled. Claims 1-3, 5-20 and 22-24 have been amended.

Response to Arguments

1. Applicant's arguments, see pg. 10, filed 03/03/2008, with respect to the 101 rejection have been fully considered and are persuasive. The 101 rejection of claims 1 and 20-24 has been withdrawn.

2. Applicant's arguments, see pg. 10-11, objections, filed 03/03/2008, with respect to the specification have been fully considered and are persuasive. The objection of 08/29/2007 has been withdrawn.

3. Applicant's arguments with respect to claims 1-20 and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

A review of the claims and updated search necessitated the rejections and objections below.

Objections

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 8 recites the limitation "rate of change". There is no reference in the specification for this limitation and its meaning, with regard to the subject matter is left to the examiners' interpretation.

2. Applicant is advised that should claim 13 be found allowable, claim 17 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claim 12 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In the present case, claim 12 is directed

toward an asset management agreement. An agreement or contract being an abstract idea does not fall under any of the statutory classes of invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the present case the term "rate of change" is not defined by the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-3, 7, 8 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (2002/0059127) in view of Melamed (2004/0024695).

As per claim 1;

Brown discloses:

A method for managing investment portfolios, the method performed at least partially on a computer and comprising:

identifying a plurality of debt obligations; which together constitute an a single debt index (Para 0028);

linking a first investment deal to the single debt index according to terms of an asset management agreement (Para's. 0026 and 0028);

linking a second investment deal to the single debt index according to terms of the asset management agreement (Para. 0026);

Brown does not disclose:

changing at least one debt obligation from the plurality of debt obligations in the single debt index according to terms of the asset management agreement; and

responsive to the change of the debt obligation in the single debt index, changing an obligation of the linked first investment deal according to terms of the asset management agreement.

However, Melamed discloses:

The rebalancing of indices and portfolios in order to maintain an ideal or desired risk level (Para's. 0003 and 0006).

The examiner asserts that collateralized obligations, asset management agreement, and debt obligations, in the context of this claim serve only as nonfunctional descriptive material and as such do not alter how the process steps are to be performed to achieve the utility of the invention.

The examiner asserts that the lining of the second deal to the index is similar in scope to the establishing of an individual account for each of a plurality of investors as disclosed in Brown as the claim does not disclose how or whether the first and second deal are tied together.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Brown and Melamed. One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to maintain an ideal or desired risk level, and/or increase returns and/or profits.

As per claim 2;

Brown does not disclose:

A method according to claim 1, further comprising

responsive to the change of the debt obligation in the single debt index, changing an Obligation of the linked second investment deal.

However, Melamed discloses:

The rebalancing of indices and portfolios in order to maintain an ideal or desired risk level (Para's. 0003 and 0006).

It would have been obvious to one of ordinary skill in the art to apply this process to multiple accounts, portfolios or deals.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Brown and Melamed. One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to maintain an ideal or desired risk level, and/or increase returns and/or profits.

As per claim 3;

Brown does not disclose:

A method according to claim 1, further comprising establishing a tranche structure for the linked first investment deal.

However, Melamed discloses:

Shifting assets between similar types of assets that carry differing levels of risk (Para. 0041).

The examiner asserts that the method of Melamed is similar to a tranche as a tranche is the purchase of related securities with differing risk, reward .

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Brown and Melamed.

One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to maintain an ideal or desired risk level, and/or increase returns and/or profits.

As per claim 7;

Brown discloses:

A method according to claim 1, further comprising:

after identifying the plurality of debt obligations, waiting a predetermined time before allowing any change of the at least one debt obligation in the single debt index (Para. 0014).

As per claim 8;

Brown does not specifically disclose:

A method according to claim 1, further comprising:

establishing for different times, a maximum allowable rate of change to the debt index.

However, Brown discloses:

The method according to claim 7.

Melamed discloses:

Target procedures for rebalancing assets (Para. 0042).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Brown and Melamed. One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to maintain an ideal or desired risk level, and/or increase returns and/or profits.

Claims 22-24 are rejected under the same rationale used to reject claims 1 and the system disclosed in Brown (Para's. 0052-0059).

2. Claims 4, 5, 6, 11, 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (2002/0059127) in view of Melamed (2004/0024695) and Official Notice.

As per claim 4;

Brown does not disclose:

A method according to claim 3, wherein the tranche structure has a single tranche.

However, Official Notice is taken that tranche structures were old and well known in the art at the time of this invention.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Brown, Melamed and Official Notice.

One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to maintain an ideal or desired risk level, and/or increase returns and/or profits.

As per claim 5;

Brown does not disclose:

A method according to claim 3, further comprising

establishing a tranche structure for the linked second investment deal, wherein the tranche structure of the first linked investment deal is different from the tranche structure of the second linked investment deal.

However, Official Notice is taken that tranche structures were old and well known in the art at the time of this invention.

Additionally, as Brown discloses establishing portfolios for a plurality of investors it would have been obvious to one of ordinary skill in the art to establish different tranche structures for other investors.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Brown, Melamed and Official Notice. One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to maintain an ideal or desired risk level, and/or increase returns and/or profits.

As per claim 6:

Brown does not disclose:

A method according to claim 1, wherein the first and second investment deals are formed at distinct and different times.

However, as brown discloses establishing portfolios for a plurality of investors it would have been obvious to one of ordinary skill in the art to establish these portfolios at distinct and different times. Additionally, the phrase 'distinct and different times' is vague

and does not serve to establish any particular time frame or amount of time elapsed between the establishment of the deals.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Brown, Melamed and Official Notice. One of ordinary skill in the art at the time of this invention would have been motivated to do so as a common business practice.

As per claim 11;

Brown does not disclose:

A method according to claim 1, further comprising:

responsive to a change of a debt obligation in the single debt index, breaking the link to the first investment deal.

However, Official Notice is taken that it is old and well known in the art to liquidate or sell portfolios or investments at the investors' discretion or the managers' advice should the change in the index yield or portend undesirable results or cross a preset threshold.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Brown, Melamed and Official Notice.

One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to maintain an ideal or desired risk level, and/or increase returns and/or profits.

As per claim 12;

Brown does not disclose:

A method according to claim 1, wherein the asset management agreement is an agreement between a sponsor and an asset manager, the method further comprising: managing the single debt index according to terms of the asset management agreement.

However, Official Notice is taken that asset management agreements were old and well known in the art at the time of this invention.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Brown, Melamed and Official Notice. One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to retain professional counsel and maximize the investors' desired results.

Claim 20 is rejected under the same rationale used to reject claims 1, 2 and 5.

3. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (2002/0059127) in view of Melamed (2004/0024695) and Ram et al. (2006/0069635).

As per claim 9;

Brown does not disclose:

A method according to claim 1, further comprising:

establishing a maximum value of investment deals that can be linked to the debt index.

However, Ram discloses:

Specifying limits on portfolio total market value or total quantity of specific equity securities, index components, etc. in an overall portfolio.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Brown, Melamed and Ram.

One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to maintain an ideal or desired risk level, and/or increase returns and/or profits.

As per claim 10;

Brown does not disclose:

A method according to claim 9, wherein the maximum value is a percentage of the total obligations that constitute the single debt index.

However, Ram discloses:

Setting portfolio amount limits as a percentage of the obligations in the index (Para. 0662).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Brown, Melamed and Ram.

One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to maintain an ideal or desired risk level, and/or increase returns and/or profits.

4. Claims 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (2002/0059127) in view of Melamed (2004/0024695) and Andrus et al. (2002/0156709 A1).

As per claim 13 and 17;

Brown does not disclose:

A method according to claim 1 wherein the deal is a special purpose vehicle.

However, Andrus et al. discloses a special purpose vehicle chartered to hold the assets and liabilities of a single series of funds received from capital markets investors (paragraph 0017).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to include the method of Brown, Melamed and Andrus et al.

One of ordinary skill in the art would be motivated to do so in order to raise capital for corporate investments.

5. Claims 14, 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (2002/0059127) in view of Melamed (2004/0024695) and Joao (2002/0032586 A1).

As per claim 14;

Brown discloses:

A method according to claim 1 wherein the deal is a managed (credit-linked) note.

However, Joao discloses:

However, Joao discloses a credit-linked note created and issued to investors (paragraph 0020).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the method of Brown, Melamed and Joao.

One of ordinary skill in the art would have been motivated to do so in order to offer a variety of securities in the portfolio.

As per claim 16;

Brown does not disclose:

A method according to claim 1 wherein the deal is a swap.

However, Joao discloses a swap created and issued to investors (paragraph 0020).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the method of Brown, Melamed and Joao.

One of ordinary skill in the art would be motivated to do so in order to offer a variety of securities in the portfolio.

As per claim 18 and 19;

Brown does not disclose:

A method according to claim 1 wherein the obligation of the linked deal is a debt or synthetic obligation.

However, Joao discloses:

a credit derivative being any one of a bond, note, securitized bond, securitized note, a swap, a credit swap, an option, a credit option…a credit linked note, etc. (Para. 0020).

The examiner asserts that one of ordinary skill in the art would recognize that a debt or synthetic obligation is an obvious variant of a credit-linked note.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the method of Brown, Melamed and Joao.

One of ordinary skill in the art would be motivated to do so in order to offer a variety of securities in the portfolio.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (2002/0059127) in view of Melamed (2004/0024695) in view of Joao (2002/0032586 A1) further in view of BaFin (Federal Financial Supervisory Authority, Circular R 1/2002).

As per claim 15;

Brown does not disclose:

A method according to claim 1 wherein the deal is a managed Schuldschein.

However, BaFin discloses (page 2, paragraph 5) that a Schuldschein is a credit-linked note.

Further, Joao discloses a credit-linked note created and issued to investors (paragraph 0020).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the method of Brown, Melamed, Joao and BaFin.

One of ordinary skill in the art would have been motivated to do so in order to offer a variety of securities in the portfolio.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Rankins whose telephone number is 571-270-3465. The examiner can normally be reached on M-F 7:30 AM - 5:00 PM, off alt Fridays beg 6/15/07.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William E Rankins/
Examiner, Art Unit 3696
05/20/2008